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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11 UNITED STATES OF AMERICA,) No. CR-05-0611 WHA
12 Plaintiff,)
13 v.) **STIPULATION AND [PROPOSED]**
14 CHARLES DEWEY TOBIAS,) **ORDER CONTINUING CHANGE-OF-**
15 Defendant.) **PLEA HEARING**

16

17 On September 5, 2006, the parties in this matter appeared before the Court for a status
18 conference. The parties informed that Court that they were in the process of negotiating a
19 resolution of the case with respect to defendant Charles Tobias, and asked to return for change of
20 plea on September 19, 2006.

21 The parties have since met and conferred several times. While the parties are very close
22 to settlement, there remains a good-faith disagreement concerning the proper application of the
23 Sentencing Guidelines to the facts of this case. Both parties have undertaken their own
24 independent research and have agreed to meet and confer once again early this week.

25 Accordingly, the parties jointly seek one additional week to bring these negotiations to
26 closure. The parties thus agree and stipulate that the hearing presently scheduled for September

1 19, 2006 should be continued to September 26, 2006, provided that the Court is available on that
2 date. The parties further agree and stipulate that time should be excluded under the Speedy Trial
3 Act in the interests of justice and to enable both sides to prepare effectively by conducting the
4 necessary research.

5 IT IS SO STIPULATED.

6 Dated: 9/18/06

/s/ _____
7 BARRY J. PORTMAN
Federal Public Defender
8 JOSH COHEN
Assistant Federal Public Defender

9 Dated: 9/18/06

/s/ _____
10 KEVIN V. RYAN
United States Attorney
11 JAMES KELLER
Assistant United States Attorney

13 **ORDER**

14 Accordingly, and for good cause shown, the Court orders that the hearing in this matter
15 presently scheduled for September 19, 2006 shall be vacated, and directs the parties to appear for
16 change of plea on September 26, 2006 at 2:00 PM.

17 The Court further orders that the time from September 19, 2006 through September 26,
18 2006 shall be excluded under the Speedy Trial Act. The Court finds that the ends of justice
19 served by granting the requested continuance outweigh the best interest of the public and the
20 defendant in a speedy trial. This finding is based on the Court's determination that the failure to
21 grant the continuance would deny counsel for both parties the reasonable time necessary for
22 effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. §
23 3161(h)(8)(A) & (B)(iv).

24 IT IS SO ORDERED.

25 Dated: September 18, 2006

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WILLIAM H. ALSUP
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA